

REMARKS

The final Office Action dated November 26, 2008 has been received and its contents carefully noted. Claims 46-96 remain pending in the application. In view of the amendments above and the following remarks, reconsideration of this application is now respectfully requested.

Claim Rejections under 35 U.S.C. § 101

The Examiner rejects claims 63-79 and 80-96 under 35 U.S.C. § 101 as not being statutory subject matter. Claims 63 and 80 have been amended so as to better reflect why they (as well claims 64-79 and 81-96 which depend upon them) represent statutory subject matter.

Claim 63 has been amended, in accordance with the Examiner's rationale for the rejection, to reflect that the system includes a computer processor, which must represent a minimum hardware component. This does not represent new matter because the system embodiments of the invention are characterized in the Detailed Description section of the disclosure as running on computer systems, and computer systems must have a processor to be a functioning computer.

Claim 80 has been amended, in accordance with the Examiner's rationale for the rejection, to reflect that the invention involves storage on computer readable media. This does not represent new matter because the Detailed Description characterizes the embodiment as being stored in a database or file system, which must ultimately be stored on computer readable media.

Therefore, Applicant submits that claims 63-96 should be considered patentable subject matter.

Claim Rejections under 35 U.S.C. § 103

Claims 46, 49-55, 58-63, 66-72, 75-80, 83-89, and 92-96 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. App. Pub. No. 2002/0036654 to Evans et al. (Evans) in further view of U.S. Pat. App. Pub. No. 2005/0027594 to Yasnovsky et al. (Yasnovsky). Claims 47-48, 56, 64-65, 73, 81-82, and 90 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans in further view of Yasnovsky, and in further view of U.S. Pat. App. No. 2002/0147645 to Alao et al. Claims 57, 74, and 91 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans,in further view of Yasnovsky, and in further view of U.S. Pat. App. No. 2003/0191693 to Aphek.

Applicant is submitting herewith the Declarations of joint inventors Bret Alan Gorsline and Ron Hyman Rothman in accordance with 37 C.F.R. § 1.131. Along with the Declarations, Applicant is submitting along with each Declaration four exhibits labeled “Exhibit A”, “Exhibit B”, “Exhibit C”, and “Exhibit D”, which provide documentary evidence of the statements asserted in the Declaractions. The 1.131 Declarations are being offered to swear behind the Yasnovsky reference. Yasnovsky was filed on November 3, 2003 and claims priority to U.S. Provisional Application No. 60/490,741, which was filed on July 28, 2003. The filing date of the present application is less than five (5) months after the filing date of U.S. Provisional Application No. 60/490,741. Yasnovsky does not qualify as prior art under 35 U.S.C. § 103(a) because Applicant’s dates of conception and actual reduction to practice for the invention precede the earliest priority date of Yasnovsky, i.e., July 28, 2003. The Declarations of Bret Alan Gorsline and Ron Hyman Rothman, along with the Exhibits, establish this statement. As such, Applicant traverses the rejections of claims 49-96 as they all apply Yasnovsky as a basis for rejection. Applicant, however, does not concede that the citations by the Office Action in support of the claim rejections are actually supported by Yasnovsky. Withdrawal of the rejections are in order and is respectfully requested.

In light of the amendment to the specification and the remarks provided hereinabove, Applicants respectfully submit that the present application is now in condition for allowance. However, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicants’ representative, then the Examiner is invited to contact the undersigned by telephone in order that further prosecution of this application can thereby be expedited.

Respectfully submitted,

NIXON PEABODY, LLP

/Jonathan D. Schlaifer, Reg. No. 61,719/
Jonathan D. Schlaifer
Registration No. 61,719

NIXON PEABODY LLP
Customer No. 22204
401 9th Street, N.W. Suite 900
Washington, D.C. 20004-2128
(202) 585-8000